



COMMUNITY DEVELOPMENT DEPARTMENT

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Website Address: www.morgan-hill.ca.gov

PLANNING COMMISSION MEETING MINUTES

REGULAR MEETING

JUNE 13, 2006

PRESENT: Acevedo, Koepp-Baker, Benich, Davenport, Lyle, Mueller

ABSENT: Robert Escobar

LATE: None

STAFF: Planning Manager (PM) Rowe, Senior Planner Linder (SP), Business and Assistant and Housing Services Manager (BAHSM) Maskell, and Minutes Clerk Balagso

Chair Lyle called the meeting to order at 7:02 p.m.

DECLARATION OF POSTING OF AGENDA

Minutes Clerk Balagso certified that the meeting's agenda was duly noticed and posted in accordance with Government Code Section 54954.2.

OPPORTUNITY FOR PUBLIC COMMENT

With no members of the audience indicating a wish to address matters not on the agenda, the time for public comment was closed.

MINUTES:

MAY 9, 2006

COMMISSIONER MUELLER MOTIONED TO APPROVE THE MAY 9, 2006 MINUTES WITH THE FOLLOWING CORRECTION:

Page 4. paragraph 1, line 2 ~~retiled~~ *retitled*

COMMISSIONER ACEVEDO SECONDED THE MOTION. THE MOTION CARRIED BY THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, BENICH, DAVENPORT, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: ESCOBAR.

MAY 23, 2006

COMMISSIONER MUELLER MOTIONED TO APPROVE THE MAY 23, 2006 MINUTES AS WRITTEN. THE MOTION CARRIED BY THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, BENICH, DAVENPORT, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: ESCOBAR.

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PUBLIC HEARING:

**1) SELECTION OF
CHAIR AND
VICE-CHAIR**

PM Rowe provided a brief staff report, which included the City provisions on selection of Chair and Vice-Chair. He advised that the Commissioner eligible to serve as Chair based on seniority is Commissioner Benich and Commissioner Escobar is eligible as Vice-Chair. PM Rowe stated that upon approval of the recommendation, appointments would be effective immediately.

COMMISSIONER MUELLER MOTIONED TO APPROVE APPOINTMENT OF COMMISSIONERS BENICH AND ESCOBAR TO SERVE AS CHAIR AND VICE-CHAIR, RESPECTIVELY. COMMISSIONER DAVENPORT SECONDED THE MOTION.

THE MOTION CARRIED BY THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, BENICH, DAVENPORT, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: ESCOBAR.

Commissioner Benich assumed Chairmanship and presided over the remainder of meeting.

**2) UP-05-09:
COCHRANE-
CINGULAR
WIRELESS**

A request for approval of a use permit for the construction of a 51 ft high tree pole for the installation of 6 panel wireless antennas and associated equipment cabinets located at 144 Cochrane Plaza. The subject site is zoned PUD- Commercial.

PM Rowe presented the staff report, stating that the Conditional Use Permit (CUP) was for the installation of a 6 panel cell phone transmission tower designed to look like a tree, to be located on Cochrane Plaza Shopping Center. PM Rowe added that staff is concerned there are already 2 cell towers in close proximity to the proposed Cingular towers and recommends that Cingular Wireless co-locate with an existing Metro/PCS flag pole cell tower immediately south on the Extended Stay America motel site.

Commissioners Benich, Acevedo and Koepp-Baker disclosed they had visited the site.

Chair Benich opened the public hearing.

Luke Stamos, a consultant with Ruth and Going, was present to represent Cingular Wireless. Mr. Stamos stated that he was not aware of staff's recommendation until June 12. He stated that the correct height of the tower is 40 feet, not 51. He added that co-location is good from a planning standpoint, but in this case, co-location is not physically possible. Mr. Stamos distributed copies of two letters from engineers stating that co-location is not feasible because antennas cannot fit within the existing pole. Furthermore, the pole cannot accommodate the necessary quantity of 24 coaxial cables and is not designed for present technology. Mr. Stamos stated that this tower is necessary because Cingular Wireless has a large coverage hole in this area. PM Rowe responded that staff's recommendation was based on information from Metro/PCS and added Metro/PCS had not been contacted by Cingular to co-locate at the site. Mr. Stamos stated they did not contact Metro/PCS to co-locate because it is not physically possible.

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The Commissioners asked questions regarding:

- who enforces stealth characteristics for towers
- how many Cingular Wireless customers there are in Morgan Hill
- could DiNapoli site be considered with the two 80 foot signs
- can 5 foot wide radum be hidden
- is existing Metro/PCS pole still adequate for current technology

With no others to address the matter, Chair Benich closed the public hearing.

Commissioner Acevedo stated that he does not feel comfortable approving this site without provisions ensuring existing antennas are not exposed and are repaired and maintained. He added that the existing flag pole has exposed antennas, which need to be repaired and maintained. The Commissioners discussed various options to avoid exposing the pole (e.g. synthetic pine and palm trees). Commissioner Acevedo reiterated that he was concerned with enforcement of maintenance and repair of poles.

Chair Benich opened the public hearing.

Commissioner Mueller asked if it was feasible to add 10 feet to the proposed Cingular Wireless pole to accommodate co-location. Mr. Stamos stated that Cingular Wireless would be willing to go construct a 50 foot pole for co-location.

COMMISSIONER MUELLER OFFERED A RESOLUTION TO APPROVE USE PERMIT APPLICATION, UP-05-09: COCHRANE-CINGULAR WIRELESS, WITH MODIFICATION TO THE RESOLUTION TO REFLECT A 50-FOOT POLE TO ACCOMMODATE POTENTIAL CO-LOCATION WITH OTHER COMPANIES. COMMISSIONER LYLE SECONDED THE MOTION, WHICH PASSED WITH THE FOLLOWING VOTE: AYES: KOEPP-BAKER, BENICH, DAVENPORT, LYLE, MUELLER; NOES: ACEVEDO; ABSTAIN: NONE; ABSENT: ESCOBAR.

**3) DAA-04-05:
BARRETT-ODISHO**

A request to amend the approved development agreement for a 36-lot, single-family attached development located on the southwest corner of the intersection of Barrett Ave. and San Ramon Dr. The amendment request is for a 6-month extension to the June 30, 2006 commencement of construction deadline.

SP Linder presented the staff report requesting a 6-month extension for commencement of construction. SP Linder stated that the City will assume responsibility for a 3-month delay; however, pointed out the following other areas in which the project has fallen behind schedule due to developer in-action: 1) a 3 month delay in submittal for final map process; and 2) a 3-month delay for building permits. She stated that Staff recommends a 3-month compromise and that the Commission may wish to give consideration to the applicant to meet the deadline of June 30, 2006 for the Building Permit. SP Linder continued by stating that the Final Map for the project has been signed, but the Public Works Department believes it will be another two to 3 weeks until the applicant obtains necessary bonds and completes recommendations for the Final Map; that prior to issuance of the building permit, there are several minor details that need to go back to the Architectural Review Board; that Staff estimates it will be another 2 months until the building permits will be issued; and concluded with Staff's

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recommendation of the 3-month extension of the June 30 Commencement of Construction deadline and a July 31 deadline for building permits. Commissioner Lyle asked if the applicant might need a two-month extension based on SP Linder's previous comments for a deadline of August 31. SP Linder responded that staff is aware the applicant may need this additional time.

Commissioner Davenport asked if this was the first extension for this project. SP Linder responded that it is the first extension.

Commissioner Koepp-Baker asked if summer vacation schedules would affect the permitting process. SP Linder stated that she did factor in the cancellation of the July 6 Architectural Review Board meeting into the timeline.

Chair Benich opened the public hearing; noting that none were present to address the matter, the public hearing was closed.

Commissioner Lyle expressed his disappointment that the developer was not present. He asked for the length of time from pulling permits to the commencement of construction. SP Linder responded that the time frame is usually 2 to 3 months. Commissioner Mueller asked if the developer will be able to meet the new deadlines. SP Linder responded the developer's progress is slow, but there is progress being made.

COMMISSIONER LYLE OFFERED A RESOLUTION RECOMMENDING APPROVAL TO THE DEVELOPMENT AGREEMENT AMENDMENT APPLICATION, DAA-04-05: BARRETT-ODISHO, TO GRANT THE EXTENSION FOR OBTAINING BUILDING PERMITS TO AUGUST 15, 2006, AND THE EXTENSIONS FOR THE COMMENCEMENT OF CONSTRUCTION AS FOLLOWS, NOTING THAT IF THE DEVELOPER DOES NOT MEET THE NEW DEADLINES, THE PROJECT WILL BE MOVED-OUT ONE YEAR TO ALLOW ANOTHER PROJECT TO MOVE UP:

- **FY 2005-06 (5 UNITS) ~~JUNE 30, 2006~~ OCTOBER 15, 2006**
- **FY 2006-07 (13 UNITS) ~~JUNE 30, 2007~~ APRIL 30, 2007**
- **FY 2007-08 (5 UNITS) ~~JUNE 30, 2008~~ APRIL 30, 2008**
- **FY 2008-09 (13 UNITS) ~~JUNE 30, 2009~~ APRIL 30, 2009**

COMMISSIONER ACEVEDO SECONDED THE MOTION, WHICH PASSED WITH THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, BENICH, DAVENPORT, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: ESCOBAR.

**4) UPA-80-07:
PEAK-ST. JOHN
EPISCOPAL
CHURCH**

A request for approval to amend a use permit to allow a 1,688 sq. ft. addition to the church and a 1,807 sq. ft. nursery school building for St. John the Divine Episcopal Church located at 17740 Peak Ave. The subject site is zoned R-1, 7000 Single-Family Medium Density.

PM Rowe presented the staff report. He indicated that the church was located in a residential area and that the applicant is requesting an addition to the church and a new nursery building. He also noted that the correct square footage for the nursery building

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should be 1,807, not 706 as reflected in the staff report.

PM Rowe advised the Commission of Staff's recommendation for approval to allow the use permit amendment, subject to findings and conditions as outlined in the staff report and with the title of the Resolution changed to reflect the proposed square footage for the nursery building.

Chair Benich opened the public hearing.

Charles Weston of Weston Miles Architects was present representing the Church. He requested an amendment to Section 7B of the Resolution–Time Limit. The project will be completed in phases as the Church raises the funds for the project costs. Mr. Weston also requested that the start time for the project be changed from 12 months to 24 months.

With no others to address the matter, Chair Benich closed the public hearing.

COMMISSIONER MUELLER OFFERED A RESOLUTION APPROVING AMENDMENT OF USE PERMIT APPLICATION, UPA-80-07: PEAK-ST. JOHN THE DIVINE EPISCOPAL CHURCH, NOTING CHANGES TO THE TITLE OF THE RESOLUTION TO REFLECT A 1,807 SQUARE FOOT NURSERY BUILDING, AND SECTION 7-B TO REFLECT THAT THE CONDITIONAL USE PERMIT TO REMAIN IN EFFECT FOR 24 MONTHS. COMMISSIONER LYLE SECONDED THE MOTION, WHICH PASSED WITH THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, BENICH, DAVENPORT, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: ESCOBAR.

**5) ZA-05-05/
DA 05-04/SD 05-06:
MAIN-MARRAD**

A request for approval of a Residential Planned Development, subdivision and development agreement for a 26-lot single-family development proposed on a 9.7-acre parcel located on the south side of East Main Ave., approximately 400 ft. east of the Calle Mazatan and E. Main Ave. intersection.

SP Linder presented the staff report for approval of the precise development plan for a 26-unit subdivision and development agreement. Due to the size of the project, the location next to Main Avenue, and the age of existing structures on the property, staff was required to examine if those structures have historical significance. Staff's findings indicated the structures have no historical significance and that there will be payment for the Burrowing Owl Mitigation Fee. SP Linder indicated that there was a correction required on page 3 of the Negative Declaration and page 2 of the Mitigation Monitoring and Reporting Program (MMRP). The wrong fee was stated for payment of the Burrowing Owl fee. Once corrected, the amount of payment for the fee will be omitted. SP Linder indicated that staff also checked for evidence of bats on the property. She also noted that the project will have an on-site detention for drainage and run off, and that it will be necessary to mitigate noise from Main Avenue and the pump station with walls and buffers. SP Linder further stated that the 35-unit project will have a 1-acre park with a pathway connection to Diana Park. Lot sizes will range from 3,600 to 9,900 square feet. There are BMR's clustered on lots 5, 6, 7, 8, which front onto Main Avenue. SP Linder presented Staff's recommendations, as a condition of approval, to moving one of the paired units to an interior corner lot (either lot 1 or

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35), and also moving a single-family home up onto Main Avenue.

SP Linder further advised that Phase I of the project will consist of interior streets, building lots 34 and 35, through lot 12, and construction of the 1-acre park; Phase II consists of 5 lots; and Phase 3 consists of 8 lots and the installation of park amenities within 1-acre park. Future phase of the project consists of the remainder parcel, which requires digging the detention pond, with no improvements to park in back. SP Linder stated that Staff is satisfied with the overall layout, with exception of the swapping out of units.

SP Linder then outlined corrections to the project Development Agreement for Phases 1 through 3.

SP Linder asked the Commission for questions. Commissioner Davenport asked why lots 16 and 17 are not bisected. SP Linder stated that Staff's recommendation breaks up the clustering of paired BMR units, and added that the majority of these units are in Phase 1 of this project.

Chair Benich disclosed that he visited and walked around the entire site. Commissioner Koepp-Baker disclosed she visited the site, but did not walk around entire site.

Chair Benich asked how trees will be preserved. SP Linder responded this is a mitigation issue and that the applicant is willing to accommodate as many trees as possible.

Commissioner Mueller asked about the pad height difference - an issue raised by the neighbors of the project. SP Linder responded that page 12 of the Development Agreement states that there will be no more than a 2-foot pad height difference, and that Staff did not notice a significant disparity between the existing and proposed pad height. Commissioner Mueller stated that the exact difference in pad height between this project and its neighbor should be defined.

Chair Benich opened the public hearing.

Dick Oliver of Dividend Homes identified himself as the buyer of the property, not the applicant. He added that the project was significantly delayed due to the Expanded Study requirement by the City. He stated that he had not had the opportunity to discuss the staff report with SP Linder, but he had the following 10 items for discussion:

- 1) Page 6, paragraph ii of the proposed Development Agreement – The requirement for the 30-foot setback will not be met, but he will work on this issue with staff;
- 2) Page 6, Paragraph iv – Calculation of 16 units in Phase I should be 15 because 1 unit is a replacement unit and there are 34 allocated units. Therefore, the agreement should read 34/25;
- 3) Page 8, bottom paragraph – Timing of BMR Units: 1) would like the agreement to state that the applicant start all units in Phase; and 2) would like it to say “3 BMR units shall be under construction and framing inspection passed prior to the issuance of green card releases of the 7th home.” He also requested language for Phase 3 prior the final 2 BMR homes will have passed inspection prior to issuance of green card;

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4) Page 11 requirement for fire sprinklers. Homes in this project are not at the size for fire sprinkler requirement;

5) Exhibit B, Section 3 – Timing Requirement of Final Map submittal. Mr. Oliver requested that the following changes to Exhibit B, Sections 3, 4 and 5, due to unforeseen delays to the project:

III. FINAL MAP SUBMITTAL

Maps, Improvements, Agreements and Bonds:

FY2006-07 (13 units) ~~7-30-06~~ 2-28-07

FY2007-08 (5 units) ~~7-30-07~~ 10-31-07

FY2008-09 (8units) ~~7-30-08~~ 10-31-08

IV. BUILDING PERMIT SUBMITTAL

Submit Plans to Building for plan check:

Maps, Improvements, Agreements and Bonds:

FY2006-07 (13 units) ~~8-15-06~~ 3-31-07

FY2007-08 (5 units) ~~8-15-07~~ 1-31-08

FY2008-09 (8units) ~~8-15-08~~ 1-31-09

V. BUILDING PERMITS

Obtain Building Permits:

FY2006-07 (13 units) ~~9-30-06~~ 5-31-07

FY2007-08 (5 units) ~~9-30-07~~ 3-31-08

FY2008-09 (8units) ~~9-30-08~~ 3-31-09

Commence Construction

FY2006-07 (13 units) ~~4-30-07~~ 6-30-07

FY2007-08 (5 units) 4-30-08

FY2008-09 (8units) 4-30-09

6) Page 10 of Standard Conditions – Fire Sprinklers. Mr. Oliver requested requirement be removed, as they are not required in homes of this size.

7) Page 11 – 0 vii – Fire Sprinklers. Mr. Oliver requested requirement for fire sprinklers be removed as they are not required in homes of this size.

8) Page 20, xx i a of Standard Conditions - Burglar System. Mr. Oliver requested to strike the word “conduit”.

9) Page 21, Item B - Mr. Oliver requested the addition of the word “preliminary” in front of landscape plan.

10) Page 21 – Request for BMR units. Mr. Oliver explained that the project does not have ability to widen lots and move homes. There is limited room, as well as an economic consideration - moving a single-family market rate home to a smaller lot will reduce value of home. He stated that he appreciates the Commission’s consideration of his concerns.

Commissioner Lyle expressed his concern regarding the BMR minimum.

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Chair Benich opened the public hearing.

Mr. Hollenbeck, a resident on Grand Prix, asked for the definition of BMR and asked if the project was for low-income homes.

Chair Benich responded to Mr. Hollenbeck's question and provided background information on the BMR program, and stated that this project is not for low-income housing. He added that the BMR program was a voter-approved initiative, which accommodates housing needs for different income levels. Developers design BMR homes to blend in with other homes in the project.

PM Rowe stated that BMRs represent 13% of this project. Participants in the BMR program must qualify for financing and provide down payment.

Mr. Hollenbeck asked if the homes in the project were two stories. He mentioned that the extension of the path to Diana Park might raise legal concerns for him in regard to his backyard pool.

Mr. Brooks, a resident on Grand Prix, expressed concerns regarding construction of two-story homes behind his house.

With no others to address the matter, Chair Benich closed the public hearing.

SP Linder stated that the path to connect to Diana Park is part of Phase 4. The applicant has committed to landscaping of path-not the extension of the park, but access into this development. Home placements for single family homes have 20 plus foot setbacks. Chair Benich asked SP Linder to address Mr. Oliver's response to Staff's recommendation regarding moving the BMR homes further into the interior of the project. SP Linder stated that Staff understands that there are costs involved in switching-out home models to break-up the BMR cluster.

Commissioner Mueller stated there are two main issues for this item: 1) moving two BMRs; and 2) losing the sound wall along Main Avenue. Commissioner Acevedo asked for Staff input on requested changes of dates. Staff responded that the date changes are OK.

Commissioner Koepp-Baker stated that she drove through the area and believes a large single-family home at the front of the project would be out of character. She asked Chair Benich to reopen the public hearing to address the project delay to reconfigure the BMRs to meet Staff recommendations.

Chair Benich reopened the public hearing.

Dick Oliver stated that the delay would be significant because the project has already been postponed.

With no others to address the matter, Chair Benich closed the public hearing.

Chair Benich stated that he also drove through the area and agrees with the observation of Commissioner Koepp-Baker. Commissioner Acevedo stated that the Commission

has required developers to reconfigure other projects in the past. He stated that the Commission should remember this instance when asked to consider configuration in the future, in order to remain consistent.

COMMISSIONER MUELLER MOTIONED TO RECOMMEND THE APPROVAL OF THE NEGATIVE DECLARATION. COMMISSIONER ACEVEDO SECONDED THE MOTION, WHICH PASSED WITH THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, BENICH, DAVENPORT, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: ESCOBAR.

COMMISSIONER MUELLER MOTIONED TO RECOMMEND THE APPROVAL OF THE MITIGATION MONITORING AND REPORTING PROGRAM (MMRP). COMMISSIONER ACEVEDO SECONDED THE MOTION, WHICH PASSED WITH THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, BENICH, DAVENPORT, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: ESCOBAR.

COMMISSIONER MUELLER OFFERED A RESOLUTION RECOMMENDING THE APPROVAL OF ZONING AMENDMENT APPLICATION, ZA-05-05: E. MAIN-MARRAD, FOR THE ESTABLISHMENT OF AN R-1/7000 RPD FOR THE PROJECT. COMMISSIONER LYLE SECONDED THE MOTION, WHICH PASSED WITH THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, BENICH, DAVENPORT, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: ESCOBAR.

COMMISSIONER MUELLER OFFERED A RESOLUTION RECOMMENDING APPROVAL OF SUBDIVISION APPLICATION, SD-05-06: E. MAIN-MARRAD, WITH THE FOLLOWING MODIFICATIONS:

- **PAGE 10– REMOVE REQUIREMENT FOR FIRE SPRINKLERS;**
- **PAGE 20 – REMOVE WORD “CONDUIT”;**
- **PAGE 21-ADD “PRELIMINARY” IN FRONT OF LANDSCAPE PLAN; AND**
- **PAGE 22–REMOVE REQUIREMENT TO MOVE BMRS**

COMMISSIONER KOEPP-BAKER SECONDED THE MOTION, WHICH PASSED WITH THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, BENICH, DAVENPORT, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: ESCOBAR.

COMMISSIONER MUELLER OFFERED A RESOLUTION RECOMMENDING APPROVAL OF DEVELOPMENT AGREEMENT

APPLICATION, DA-05-04: E. MAIN-MARRAD, WITH THE FOLLOWING MODIFICATIONS IDENTIFIED:

- **PAGE 6, (i), (ii) – REMOVE REQUIREMENT FOR 10 FOOT ACCESS**
- **PAGE 6, (i), (iv) - CHANGE TDC CALCULATION TO REFLECT ONE REPLACEMENT UNIT**
- **PAGE 8, PARAGRAPH 8 – CHANGE GREEN CARD RELEASE ON 7TH**

**UNIT FOR THE SECOND SET; CHANGE GREEN CARD RELEASE ON
23rd UNIT FOR THE LAST ONE**

- **PAGE 11 (vii) – REMOVE FIRE SPRINKLER REQUIREMENT**
- **EXHIBIT B – CHANGE SUBMITTAL FOR FINAL MAP, BUILDING PERMIT SUBMITTAL AND BUILDING PERMITS TO THE FOLLOWING DATES:**

FINAL MAP SUBMITTAL

FY2006-07 (13 units)	7-30-06	2-28-07
FY2007-08 (5 units)	7-30-07	10-31-07
FY2008-09 (8units)	7-30-08	10-31-08

BUILDING PERMIT SUBMITTAL

FY2006-07 (13 units)	8-15-06	3-31-07
FY2007-08 (5 units)	8-15-06	1-31-08
FY2008-09 (8units)	8-15-06	1-31-09

BUILDING PERMITS

FY2006-07 (13 units)	9-30-06	5-31-07
FY2007-08 (5 units)	9-30-07	3-31-08
FY2008-09 (8units)	9-30-08	3-31-09

Commence Construction

FY2006-07 (13 units)	4-30-07	6-30-07
FY2007-08 (5 units)	4-30-08	
FY2008-09 (8units)	4-30-09	

COMMISSIONER LYLE SECONDED THE MOTION, WHICH PASSED WITH THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, BENICH, DAVENPORT, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: ESCOBAR.

**6) ZA-05-09/
DA-05-08/SD 05-10:
CHURCH-ALCINI**

A request for approval of a precise development plan, subdivision and development agreement for a 3.5-acre site located on the northwest corner of the intersection of Monterey Rd. and Bisceglia Ave. The precise development plan includes 14 single-family attached units, 30 multi-family units and 11,200 sq. ft. of commercial spaces.

SP Linder presented the staff report, stating that this is a residential and commercial combination project. She continued by stating that a tentative map is proposed for the single-family homes, as well as a Development Agreement that corresponds to 14 single-family attached units. The size of the project requires a Master Plan that includes 44 units. There are older structures on the property, which were found not to be historical resources. There are 43 trees on property and the applicant agreed to preserve 2 larger trees on Monterey Road. The applicant has also made a commitment to research preservation of significant trees on the project. A detention pond is proposed within the park area of the project.

SP Linder advised the Commission that The Master Plan includes 14 single-family attached homes located closer to Church Street, an apartment building with 30 units, and commercial space on the bottom floor. She added that initially this project was 2

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separate projects: 1) Downtown Competition in 2004; and 2) Mixed-Use Competition in 2005. SP Linder stated that Staff asked the applicant to merge 2 projects together as one PUD for shared access, shared street improvements and shared common area. The merged project now has more open space, a shared detention pond, and a larger lot. She further indicated that Staff has requested the applicant to use the lay-out for the park that was developed by the Hagman Group, which moves the recreation area away from lot 14, and that with these modifications, the outdoor noise level meets the General Plan requirement for noise.

SP Linder provided details on the project:

- Parking exceeds requirement of 2 per unit, with no additional for guests or commercial.
- There are 2 Single-family units proposed on lots 7 and 10.
- Applicant is asking for setback reduction as part of the PUD approval for both the rear and front yards of 15 ft. front and 15 ft. rear – reduction from 25 and 20 feet, respectively
- Applicant is providing an additional 15 ft. setback on Bisceglia Avenue
- Staff recommends that the project form a single HOA
- Staff recommends a single set of CC&R's
- Record appropriate ingress/egress
- 2 lots fall below 40 foot requirement – Lots 2 and 5
- Staff recommends adjusting the width of lot 14

SP Linder stated that the proposed Development Agreement for tonight's consideration is only for 14 units. The mixed-use portion of the project will need a separate Development Agreement.

Commissioner Lyle asked SP Linder if there were other changes. SP Linder responded that the Burrowing Owl mitigation is missing as part of the Mitigation Monitoring Report. She added that the consultant indicated that the City has adopted a Habitat Conservation Plan, which applicants must comply with whether or not there is a negative declaration. Commissioner Lyle asked if there should be 33 or 34 allotments for the project? SP Linder stated since there is an existing single-family home within the project, over-all the project requires one (1) less unit than allocated and therefore one (1) unit could be reassigned to some other project.

Commissioner Lyle asked for information on the applicant's statement that road improvements would not be completed now, but would become part of the Capital Improvement Program (CIP). SP Linder responded that there is an overlap with the Monterey Road improvements. Commissioner Lyle stated there should be language in the Development Agreement indicating that there will be a commitment that funding for roads will be spent as part of the Downtown.

Commissioner Acevedo asked if the elevations by Gary Moore and Associates are the same as presented in the Measure C application. The applicant responded that the elevations have changed from the Measure C application.

Chair Benich opened the public hearing.

Bill McClintock of MH Engineering provided background on the project application

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and requested a 3-month extension of the schedule to the Final Map, Building Permit Submittal and Building Permits. He did not request an extension on the scheduled dates for "commence construction." He added there needs to be discussion with the Public Works Department for clarification on the commitments. He indicated some of the commitments could have been duplicated in public facilities, circulation efficiency and livable communities. As a result, the duplicated commitments total \$21,000 per unit, rather than \$13,200 per unit.

Chair Benich clarified that the applicant is asking for a 2-week continuation.

Commissioner Lyle asked if the applicant would be ready to pull permits on 12-30-06. Bill McIntock responded they would probably need more time.

Kathy Borona, a property owner adjacent to the project, stated her concerns regarding the setback for the mutli-level apartment building, and asked if there will be a sound wall.

SP Linder responded that there will be a distance of 40 to 50 foot distance between the 3-story structure and the property line. She added that the noise level will go down because the 3-story building will act as a shield to noise coming from Monterey Road. There are no proposals for sound walls on the property. SP Linder recommended moving the detached garage 5 feet from the property line, and a 20 foot setback for the dwelling.

With no others to address the matter, Chair Benich closed the public hearing.

COMMISSIONER MUELLER MOTIONED TO CONTINUE THE ITEM TO THE JUNE 27, 2006 COMMISSION MEETING. THE MOTION PASSED WITH A UNANIMOUS AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT; ESCOBAR WAS ABSENT.

**7) ZA-05-30:
CITY OF M.H.-
COCHRANE PLAZA**

The proposed project is a zoning text amendment to the existing Planned Unit Development of the existing Cochrane Plaza, to allow grocery supermarkets as permitted uses. Cochrane Plaza is located within the Morgan Hill Business Ranch. Under the existing Planned Unit Development (PUD) for this commercial site, grocery supermarkets are specifically excluded as a permitted use.

SP Linder presented staff report and background on Measure H.

SP Linder requested the Commission to approve a draft of the Resolution recommending City Council approval that strikes the part of Ordinance 835 that excludes grocery stores at Cochrane Plaza and add it as a permitted use. PM Rowe distributed a revised version of the Resolution to the Commission for approval with the text amendments.

Commissioner Mueller stated that the election is not certified yet and that he is not comfortable approving the Resolution before the election is certified. Commissioner Davenport stated that waiting 2 weeks until the certification is complete to approve the Resolution should not be problem. PM Rowe responded that the City wants to give Cochrane Plaza as much time as possible to identify a new tenant before Target moves

out.

Chair Benich opened the public hearing; noting that there were none present to address the matter, the hearing was closed.

COMMISSIONER DAVENPORT OFFERED A RESOLUTION RECOMMENDING APPROVAL OF AN AMENDMENT TO ORDINANCE 835, SECTION II A.2 ELIMINATING THE EXCLUSION OF GROCERY SUPERMARKETS FROM THE LIST OF PERMITTED USES ALLOWED WITHIN THE PORTION OF THE MORGAN HILL BUSINESS PARK ZONED COMMERCIAL PUD. COMMISSIONER ACEVEDO SECONDED THE MOTION, WHICH PASSED WITH THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, BENICH, DAVENPORT, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: ESCOBAR.

**8) MEASURE “C”
BUILDING
ALLOTMENT FOR
FY 2009-2010 AND
FY 2010-2011 (2007
COMPETITION)**

Adopt Resolution with the following recommendations for approval by the City Council:

1. Recommend the City Council approve the available building allotment for Fiscal Year 2010-11, as determined using the latest State Department of Finance Population and Housing Estimates.
2. Recommend the City Council reserve a portion of the FY 2009-10 building allotment for a separate micro-project competition.
3. Recommend the City Council award the balance of the FY 2009-10 allotments to on-going projects.

PM Rowe presented the staff report and explained that every two years the City is required to calculate the available number of building allotments using the most recent Department of Finance Population and Housing estimates. PM Rowe provided the background on the formula. He stated that Staff recommends adjusting the formula, due to fewer persons per household for the 190 one and two bedroom dwelling units proposed in the Downtown and the additional population due to the recent annexation of “unincorporated city islands,” to an allotment of 248 units for year 2009/2010. As opposed to the initial staff recommended action, it is recommended the 2010/2011 year would be determined next year using the 2007 Department of Finance figures. Staff also recommended that 3 units set aside in 2009/10 for the micro competition to be phased over 2 years.

Chair Benich stated that he believed that this adjustment was done every year. PM Rowe responded that the adjustment was done every year under Measure P; but the Measure C requirement is every 2 years.

Commission Lyle stated that the changes to Section B of the Resolution could be reflected as follows:

- 1) 2009/10 should be 248
- 2) Add sentence stating “number of allotments for 2010/11 will be determined during the second quarter of 2007 based upon the Department of Finance estimates”.
- 3) Title changed to reflect changes above

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Commissioner Lyle asked if there could be additional language indicating the number of allotments for on-going projects will remain the same as long as there is adherence to the original schedule. PM Rowe responded this language would be appropriate included with the projects Development Agreements under Exhibit B.

Commissioner Mueller stated that he felt uncomfortable with the adjustments for population. He then asked for clarification on the estimate of 6 units for the single-unit exemption. PM Rowe responded that this is tracked yearly, and that the estimate is based on actual single dwelling unit building applications.

Commissioner Mueller noted that the population is a dependent variable based on an average of previous year. Commissioner Lyle stated there are 120 units that are undeveloped because developers are not on schedule. Commissioner Mueller noted a problem with the DOF estimates is that the vacancy rate remains constant based on the 2000 US Census as opposed to being changed each year.

Chair Benich opened the public hearing.

Dick Oliver of Dividend Homes asked for the date the Measure C hearing for the 2010/2011 allotment would be held. PM Rowe responded that the hearing would usually be held in October 2007. Mr. Rowe added there was a request to hold this competition a year earlier, or the competition would have normally been held in October 2008.

Mr. Oliver asked about competition scoring and added that the Mission Ranch application had one of highest scores and is one of the oldest projects. He added that there are currently 130 units left to be built, and based on the proposed distribution there would be an allotment of 14 units to this project.

Commissioner Mueller asked if the 25 units added through annexation was subtracted from the population cap. Commissioner Lyle responded that the 25 units have been added into the current population, or can be subtracted from the population cap. Both methods have the same result.

Commissioner Acevedo disclosed that he owns property located downtown, across the street from application MC-05-03: Monterey-Gunter Property.

Commissioner Lyle stated that he believes the methodology is OK. He added that he would rather not itemize the allotments in Section 3 of the Resolution, but rather provide totals. For example the Resolution could read - "there are 79 allotments, plus 3 micro projects available, with a methodology for allocation to be determined next year."

Chair Benich asked for a consensus from the Commission on agreement with the methodology: Commissioner Davenport - OK, Commissioner Lyle - OK, Commissioner Mueller - NO, Chair Benich - NO, Commissioner Koepp-Baker - OK, Commissioner Acevedo -OK. The consensus of the Commission was to leave methodology for determining the 248 units as is.

Commissioner Lyle stated he would like to drop each allotment by 1 in order to

increase allotments for the micro competition. He stated that he attended a meeting of the Downtown Association, at which a desire to have more small projects was expressed. Property owners who want to add one or two units to their existing buildings would be eligible to compete for allotments.

COMMISSIONER ACEVEDO OFFERED A RESOLUTION RECOMMENDING APPROVAL FOR DETERMINING THE TOTAL BUILDING ALLOTMENT AND RECOMMENDING DISTRIBUTION OF THE REMAINING BUILDING ALLOTMENT FOR FISCAL YEAR 2009-2010, WITH THE FOLLOWING MODIFICATIONS:

- 1) MC-04-19 E. MAIN THRUST 9 8
- 2) MC-04-26 MISSION RANCH 14 15
- 3) SECTION B TO BE CHANGED TO REFLECT 248 ALLOTMENTS FOR FY 2009/10; ALLOTMENT FOR FY 2010/11 WILL BE CALCULATED DURING SECOND QUARTER OF FISCAL YEAR 2007
- 4) TITLE TO BE CHANGED ACCORDINGLY

COMMISSIONER KOEPP-BAKER SECONDED THE MOTION, WHICH PASSED WITH THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, BENICH, DAVENPORT, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: ESCOBAR.

Due to a conflict of interest for Commissioner Acevedo on Item 9, Chair Benich requested to move the Announcements before Item 9.

ANNOUNCEMENTS: PM Rowe distributed an Addendum to the EIR for the American Institute of Mathematics (AIM) and provided a list of Council actions from the June 7th Council meeting, which included the following: Approval of status of General Plan Implementation Report, with revisions provided by the Planning Commission; Approval of City workplan; and Approval to submit a request for a grant to the Metropolitan Transportation Commission.

Commissioner Acevedo announced that he read an article in the *San Jose Mercury* which indicated AIM will hold a golf tournament. He understood from the AIM representatives that they do not intend to hold a golf tournament; however, the article stated that they did. PM Rowe responded that the *San Jose Mercury* misrepresented the location of the golf tournament, which will be held in Las Vegas. He added AIM does not have the infrastructure now or in the foreseeable future to hold a golf tournament. Current zoning prohibits charity golf tournaments on the property. Therefore, zoning will need to be amended prior to holding an event such as this.

Commissioner Acevedo disclosed that he owns the property on the corner of Main and Monterey Road, which is within the Redevelopment Project Area. He stepped down based on conversations with the City Attorney and will continue to do so, until he is advised otherwise by the City Attorney.

Commissioner Koepp-Baker also disclosed that she also owns property within the Project Area, but did not have to step down, as there is no vote on this item. Chair Benich added that Vice-Chair Escobar lives within 500 feet of the Project Area, but

does not need to step down as there is no vote on this item.

9) PROGRAM EIR SCOPING MEETING FOR OJO DE AGUA REDEVELOPMENT PROJECT AMENDMENT

Hold a Program EIR scoping meeting pursuant to California Environmental Quality Act Business Assistance and Housing Services Manager (BAHSM) Maskell presented the staff report and introduced Ernie Glover of GRC Consultants, who will prepare the Plan Amendment. Mr. Glover provided background on his firm, and on the project. He explained this amendment will reduce the Project Area by 492 acres. This is primarily the northern part of the project area. The projects within these 492 acres are finished and the Redevelopment Agency has not used the tax increment from that area to secure bonds. The property taxes received from this area will flow back into the General Fund and other local agencies, such as schools. The Amendment calls for increasing the tax increment cap to accommodate potential growth. Currently the Project Area will reach its financial limits prior to the time limit. Therefore, increasing the cap will improve the Agency's ability to finance projects over a longer period of time. The Amendment also calls for increasing bond limits to \$150 million. In addition, the Amendment proposes reauthorization of Eminent Domain on certain non-residential parcels in order to remove blighted conditions. He added that the proposed EIR is programmatic with no specific projects.

A joint public hearing is scheduled for Nov 1, 2006 with the City Council to consider an ordinance amending the Plan. Therefore, the recommended Plan will be before the Planning Commission on September 12, 2006 for a finding of consistency with the General Plan.

Commissioner Lyle asked if this was to be on the November ballot. Commissioner Mueller explained that the Plan Amendment and cap do not have to be approved by the voters. City Council approval is sufficient.

Commissioner Mueller asked if any consideration had been given to any specific projects. Mr. Glover responded that no specific projects had been identified at this point and that the goal of the EIR is to stimulate growth in an area that it might not otherwise happen.

Commissioner Lyle asked about the process used to determine the elimination of 492 acres from the Project Area. Mr. Glover responded that detailed field surveys were conducted, coupled with an analysis completed on the projects.

Commissioner Koepp-Baker asked about the reauthorization of Eminent Domain. Mr. Glover responded it is only a recommendation at this time.

Commissioner Lyle asked about the potential challenges of including residential parcels in Eminent Domain. Mr. Glover stated the election of a Project Area Committee is then required if there are a significant number of low & moderate income households. However, there is no specific number or percentage that indicates what is a "significant" number. The Project Area Committee would be comprised of owner-occupants, renters, community organizations and businesses. The election would be within the Project Area and requires a formal process.

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The Commissioners had the following comments:

- 1) Page 10 – need to address impact of parking;
- 2) Page 12 – should revisit whether Biological Resources have less than significant impact
- 3) Page 16, Item 3– Schools: Schools are currently impacted
- 4) Page 19, Item 1– City is currently not meeting requirement of parks of 5 acres per 1000 people. Therefore, demand for parks should increase
- 5) Page 10 – Roads: Dunne Avenue underpass could positively effect railroad

ADJOURNMENT:

As there was no further business to be considered by the Commissioners at this meeting, Chair Benich adjourned the meeting at 10:55 p.m.

MINUTES PREPARED BY:

MARGARITA BALAGSO, Minutes Clerk